

PT 95-54  
Tax Type: PROPERTY TAX  
Issue: Charitable Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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VIETNAMESE ASSOCIATION OF ILLINOIS )  
Applicant ) Docket # 92-16-1107  
 ) Parcel Index # 14-08-405-007-0000  
v. )  
 ) Barbara S. Rowe  
THE DEPARTMENT OF REVENUE ) Administrative Law Judge  
OF THE STATE OF ILLINOIS )  
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RECOMMENDATION FOR DISPOSITION

SYNOPSIS: The Cook County Board of Review/Appeals filed a Board of Appeals Statement of Facts in Exemption Application with the Illinois Department of Revenue (the "Department") for Vietnamese Association of Illinois (the "Applicant"). The Department denied the application finding that the property was not in exempt use. The Applicant filed a protest to the findings of the Department and requested a hearing in the matter.

The hearing was held pursuant to the request. At the hearing the Applicant testified that they had a managerial group operating the property in 1992, they only charged to park in the lot on weekends and holidays, they feel that they have learned from the group how to manage the property sufficiently, they should be able to operate the lot without a deficit in the future and that they just need an exemption for the taxable year in question.

It is recommended that the decision of the Director of the Department be that the parcel in question was not in exempt use in 1992 and should be assessed to the Applicant for that year.

FINDINGS OF FACT:

1. The Department's position in this matter, namely that Cook County

permanent parcel index number 14-08-405-007-0000 should not be exempt from property tax for the 1992 assessment year was established by admission into evidence of Dept. Ex. Nos. 1-8.

2. Applicant acquired the parcel in question by a quit claim deed from the City of Chicago dated February 11, 1992. The Deed restricts the use of the lot to parking for fifteen years. The Deed obligates the Applicant for all real estate taxes and assessments on the property when due. (Dept. Ex. No. 2)

3. The parcel is improved as a paved parking lot. (Dept. Ex. 2)

4. Applicant is a domestic corporation, incorporated under the General Not-For-Profit Corporation Act of Illinois on August 5, 1976. (Dept. Ex. No. 2)

5. The purposes of the Applicant are:

1. To strengthen and perpetuate the unity and solidarity of the Vietnamese residing in the state of Illinois.
2. To generate and implement the mutual assistance spirit among the Vietnamese ethnic group members.
3. To promote, support and develop various cultural, social and educational programs to serve the Vietnamese in Illinois.
4. To foster the development and strength of various Vietnamese organizations in the state of Illinois.  
(Dept. Ex. No. 2)

6. Applicant is exempt from payment of federal taxes as recognized by the 501(c)(3) designation granted by the Internal Revenue Service on August 16, 1978. (Dept. Ex. No. 2)

7. Applicant offers free parking at the lot on Mondays through Thursdays. The Applicant charges fees on Friday, Saturday, Sundays and holidays. (Dept. Ex. No. 2; Tr. pp. 22-23)

8. The Applicant hired a professional management company for the day-to-day operations of the parking lot. The Applicant agreed to pay the company \$600.00 per month to manage the parking lot. (Dept. Ex. No. 5)

9. The Applicant received any profit from the management company if the income exceeded expenses. The Applicant owed the management company the difference between the contract amount and the revenues when there was a loss. (Tr. p. 23)

10. The lot generated a deficit of \$3,636.07 during the 1992 assessment year. (Dept. Ex. No. 2; Tr. pp. 22-23)

11. The Applicant learned how to oversee the property from the parking management company and expects to break even in the operation of the parking lot in the future. (Tr. pp. 22-25)

CONCLUSIONS OF LAW: Article IX, 6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Certain property is exempt from taxation under the Illinois Statutes. In particular, 35 ILCS 205/19.16 (1992 State Bar Edition) exempts certain property in part as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided hereinbefore and owned by any school district, non-profit hospital or school, or religious or charitable institution which meets the qualifications for exemption.

In *Crerar v. Williams*, 145 Ill. 625 (1893), the Illinois Supreme Court defined charity as follows:

A charity, in a legal sense, may be more fully defined as a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public government. It is immaterial whether the purpose is called charitable in the gift itself, if it is so described as to show that it is charitable in nature.

In the case of *Methodist Old Peoples Home v. Korzen*, 39 Ill. 2d 149 (1968), the Illinois Supreme Court enumerated six guidelines to be used in

determining whether or not an organization is charitable. Those guidelines are as follows:

- (1) The benefits derived are for an indefinite number of persons;
- (2) The organization has no capital, capital stock or shareholders, and does not profit from the enterprise;
- (3) Funds are derived mainly from private and public charity, and are held in trust for the objectives and purposes expressed in its charter;
- (4) Charity is dispensed to all who need and apply for it;
- (5) No obstacles are placed in the way of those seeking the benefits; and
- (6) The primary use of the property is for charitable purposes.

Applicant has shown that it is a 501(c)(3) organization and exempt from taxation under federal law. Illinois law is very clear that this does not necessarily entitle an Applicant to a charitable property tax exemption. People ex rel. County Collector v. Hopedale Medical Foundation 46 Ill. 2d 450 (1970).

The Applicant has not proven itself to be a charitable organization based upon the criteria enumerated in Methodist Old Peoples Home. Applicant has not satisfied requirements one through six of that case. The Applicant is attempting to make a profit from the property and just because it was unable to do so in 1992 does not entitle them to a property tax exemption.

I find that the Applicant is not a charitable organization and the lot does not qualify as a parking lot used by a charitable organization in 1992. I recommend that the Director of the Department of Revenue decide that Cook County parcel index number 14-08-405-007-0000 should remain on the tax rolls for the 1992 assessment year.

Respectfully Submitted,

Barbara S. Rowe

Administrative Law Judge

May 25, 1995